

United States District Court
Southern District of Texas
FILED

NOV 14 2013

David J. Bradley, Clerk of Court

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CASE # 1:13 - CV - 00190

TO: CLERK DAVID J. BRADLEY

DEPUTY CLERK DAHLILA AHUMADA

JUDGE ANDREW S. HANEN

MAGISTRATE JUDGE RONALD MORGAN

MAIL
United States District Court
Southern District of Texas
RECEIVED

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David J. Bradley, Clerk of Court

FROM: SCOTT W. HESS - (T.D.C. INMATE) Scott W. Hess
T.D.C.J. # 1841004

RE: HABIAS CORPUS CLAIM FILED 10/11/13.

DEAR SIRS + MA'AM,

I AM WRITING TO SUPPLEMENT MY FORM 2254.
PERTAINING TO QUESTION #12, GROUNDS 2-5 WERE IN
FACT PRESENTED TO THE STATE AS AN AMENDMENT TO
FORM 11.07 WHICH WAS SENT TO THE CAMERON
COUNTY COURT CLERKS OFFICE (197TH DISTRICT) THE
VERY SAME WEEK THAT FORM 11.07 WAS SENT.
HOWEVER IT WAS NOT RECOGNIZED BY THEIR OFFICE.
IT IS LEGAL TO SUPPLEMENT A WRIT WHILE WAITING
FOR A RESPONSE. THE REASON THAT I FAILED TO
CITE GROUNDS 2-5 IN MY ORIGINAL APPLICATION
IS THAT I AM STILL HAVING TROUBLE, AS A MENTAL
HEALTH PATIENT, GETTING STABLE ON MY MEDICINE
HERE IN PRISON AS IN THE COUNTY JAIL. SINCE
I WAS SUSPENDED FROM TROPICAL M.H.M.R. CLINIC
IN BROWNSVILLE IN DECEMBER 2011 AND WAS
UNABLE TO GAIN ANOTHER SOURCE OF MEDICINES
UNTILL MY ENCARCORATION IN LATE APRIL 2012,

(2)

MY CONDITION HAD WORSENERED. THE TRAUMA AND STRESS OF JAIL AND PRISON, AT AGE "51", HAS LEFT ME STILL IN AN UNSTABLE CONDITION DUE TO NEW ANXIETY AND PANIC ATTACKS. MY CONDITION IS SLOWLY IMPROVING - I HAVE GOOD DAYS AND BAD DAYS. A FEW DAYS AFTER SENDING IN MY 11.07, I WAS THINKING A BIT MORE CLEARLY AND ABLE TO INCLUDE GROUNDS 2-5, WHICH WERE MY ORIGINAL INTENTIONS.

NOW, FEELING MUCH BETTER, I'M HOPING YOU WILL ACCEPT THIS SUPPLIMENT - GROUNDS 6-14. I WAS RECENTLY TRANSFERRED FROM A TRANSFER FACILITY WITH A POOR LAW LIBRARY... AND IN THE COUNTY JAIL (4/12 THRU 3/13) I HAD ACCESS TO ~~NO~~ RESOURCES AT ALL. HERE AT THIS "I.D." UNIT THE LAW LIBRARY IS BETTER EQUIPPED. FOR THESE 2 REASONS, IMPROVED MENTAL CONDITION AND BETTER RESOURCES, I PRAY THAT YOU ACCEPT THIS AMENDMENT TO MY 5 PAGE ANNEX THAT WAS INCLUDED WITH FORM 2054. (GROUND "5" AND MY LEGAL ARGUMENT ALONG WITH THE PRECEDENTS I CITED).

ALSO, I NEED TO CLARIFY AND CORRECT MY RESPONSE TO QUESTION #23 - THE RELIEF I AM SEEKING. I AM SEEKING A "REVERSAL" FOR MULTIPLE VIOLATIONS OF DUE PROCESS OF LAW UNDER THE CONSTITUTION IN MY CASE WITH THE STATE. IF THIS

3

IS NOT AN OPTION ACCORDING TO THE U.S. DECISION. THEN I'D ASK THAT THE CONVICTION BE SET ASIDE. THE FOLLOWING ARE THESE ADDITIONAL GROUNDS.

6) UNLAWFUL CONVICTION: IT WAS MORE THAN OBVIOUS THAT I WAS EXPERIENCING DEFINATE SYMPTOMS OF MENTAL ILLNESS AT THE TIME OF THE INCIDENT AND WAS CLEARLY INCOMPETANT AT THAT TIME. IT IS UNLAWFUL TO CONVICT SOMEONE WHO WAS INCOMPETANT AT THE TIME OF THE ALLEGED CRIME.

7) UNTIMELY AND INADQUITE PSYCHE. EVALUATION: IT WAS MONTHS "AFTER" MY ARREST THAT I WAS GIVEN AN EXTREMELY BRIEF EXAM. THIS IN NO WAY WAS ANYTHING CLOSE TO A PROPER M.S.O. (MENTAL STATE OF OFFENDER). THERE WAS NO COMPREHENSIVE DIAGNOSES MADE - I WAS ONLY ASKED A FEW GENERAL COMPETANCY QUESTIONS AND ABSOLUTELY NO WRITTEN DOCUMENTATION WAS MADE AT THAT TIME. I WAS NOT EVEN ABLE TO ANSWER SOME OF THE QUESTIONS PROPERLY. ALSO THIS EVALUATION WAS MADE AT "MY" REQUEST AND NOTED BY THE "COURT REPORTER" WHILE COURT WAS NOT EVEN IN SESSION. THE JUDGE AND THE ATTORNEYS WERE NOT PRESENT. KNOWING THAT I WAS AN M.H.M.R. PATIENT, NEITHER MY ATTORNEY OR THE JUDGE MADE A MOTION FOR MY EVALUATION. THIS IS INAPPROPRIATE - AND THE RESULTS OF THIS "SUPPOSED" EXAM MAY NOT EVEN

4

ADMISSABLE IN COURT.

- 8) CONSTITUTIONAL RIGHTS AS A MENTAL PATIENT VIOLATED: NO MOTION WAS MADE BY MY ATTORNEY OR BY THE JUDGE TO REFER MY CASE TO A "SPECIAL NEEDS ATTORNEY" OR "MENTAL HEALTH COURT," KNOWING THAT I AM AN M.H.M.R. PATIENT. THE D.A. ALSO SHOULD HAVE KNOWN NOT TO PROCEED AND WAS ALSO AWARE OF MY CONDITION. ALL THESE OFFICIALS KNOWINGLY OPPRESSED ME! A REASONABLY COMPETANT OFFICIAL SHOULD KNOW THE LAW ("JONES -V- COONCE") AND NO ONE HAS IMMUNITY. (OWENS -V- INDEPENDANCE). THIS SHOWS DEFINATE PREJUDICE AND BIAS BY ALL 3 PARTIES... ASSUMABLY BECAUSE OF THE NATURE OF MY CHARGES. THIS IS UNETHICAL!
- 9) NO COMPETANCY HEARING: ONLY A JUDGE CAN DECLARE A PERSON LEGALLY COMPETANT OR INCOPETANT. I HAD NO SUCH HEARING.
- 10) DEFICIENT INDICTMENT: THE GRAND JURY DIDN'T TAKE INTO ACCOUNT THAT I WAS AN M.H.M.R. PATIENT AND GIVEN NO M.S.O. (MENTAL STATE OF DEFENDER) EXAM BEFORE THEY ISSUED THE INDICTMENT AGAINST ME. ALSO NOT TAKEN INTO ACCOUNT IS THE FACT THAT I WASN'T GIVEN THE OPPORTUNITY TO MAKE ANY STATEMENT OF ANY KIND - WITH OR WITHOUT AN ATTORNEY PRESENT. THE INDICTMENT WAS MADE BASED SOLEY UPON A POLICE REPORT! EX-PARTE VIRGINIA

5

STATES DEFICIENCIES OF INDICTMENTS AND DOES NOT RECOGNIZE "IMMUNITY" FOR JUDGES.

- 11) PREJUDICE AND IMPROPRIETIES BY JUDGE + EXCESSIVE SENTENCE: ACCORDING TO MY ATTORNEY, I HAD MADE A CONFESSION TO THE DOCTOR (OR SPECIALIST) WHO CONDUCTED MY "SUPPOSED" PSYCHE. EVALUATION. I DID TELL THIS MAN WHAT HAPPENED AND MADE IT CLEAR THAT THIS "ALLEGED" CRIME HAD NO "INTENT." THERE WAS NO INTENT TO HARM ANYONE OR THEIR PROPERTY. NONE OF THE ESSENTIAL ELEMENTS FOR COMMITTING A CRIME EXIST. NO ONE WAS INJURED. I WAS IN MY HOTEL ROOM. NO PROPERTY WAS DAMAGED. I WAS MERELY INVESTIGATING A DISTURBANCE DIRECTLY OUTSIDE MY HOTEL ROOM. I COULD NOT INJURE COMMUNITY FROM INSIDE MY HOTEL ROOM.

THIS ALLEGED CONFESSION WAS RECEIVED AS VALID BY THE D.A. AND BY MY ATTORNEY... SURELY THE JUDGE WAS AWARE. "CUM CONFITENTE SPONTE MITUS ET AGENDUM" STATES THAT A PERSON MAKING A CONFESSION IS TO BE DEALT WITH MORE LENIENTLY. AS STATED IN GROUND 8+10, THE JUDGE KNEW IT WAS NOT LAWFUL TO GIVE ME THE MAXIMUM 10 YEAR SENTENCE FOR THIS REASON ALONE.

IT WAS ALSO IMPROPER AND UNETHICAL THAT THE JUDGE WAS AWARE THAT THE D.A. HAD RETRACTED

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HIS OFFER OF "PROBATION" AS PLEA BARGAIN TO ME AND WAS NOW ASKING FOR 5 YEARS IN PRISON IN LIGHT OF THIS (ALLEGED) CONFESSION.

THE JUDGE ALSO CONSIDERED MY "ARREST HISTORY IN CONJUNCTION WITH MY CONVICTION RECORD (NOT THAT EXTENSIVE AT ALL) IN HER DECISION TO "THROW THE BOOK" AT A MENTAL PATIENT. THIS IS UNLAWFUL. (SEE GROUND 2 OF MY 2254) SURELY THE JUDGES BIAS TOWARD ME WAS DUE TO THE "NATURE OF THE CHARGES."

BECAUSE MY ONLY FELONY ON RECORD WAS A MINOR POSSESSION CHARGE-AND OUT OF STATE- AS WELL AS 20 YEARS OLD-I SHOULD HAVE BEEN TREATED AS A FIRST TIME OFFENDER. IT IS CUSTOMARY IN TEXAS THAT CONVICTIONS LONGER THAN 15 YEARS PRIOR ARE NOT RECOGNIZED... YET THE RECORD SHOWS THAT THE JUDGE WRESTLED WITH THIS- AND MY "ARREST" HISTORY- IN HER DECISION TO GIVE ME THE MAXIMUM 10 YEAR SENTANCE.

12) IMPROPRIETIES BY MY DEFENSE ATTORNEYS - INEFFECTIVE ASSISTANCE OF COUNSEL: I WAS ORIGINALLY APPOINTED TO A DIFFERENT ATTORNEY, "MR. GALARZA". HE FAILED TO SHOW UP TO COURT 3 TIMES, LENGTHENING MY STAY IN THE COUNTY JAIL AND LEAVING ME WITH A FEELING OF ABANDONMENT

7

AND LED ME TO BEING APPOINTED TO ATTORNEY "MR. SOROLA"-WHO IS A REGULAR IN JUDGE MIGDALIA LOPEZ' COURT AND I BELIEVE THAT I DID NOT RECIEVE EFFECTIVE DEFENSE AS IT APPEARS THAT HE WORKS COOPERATIVELY WITH BOTH THE D.A. AND THE JUDGE. IT SEEMS TO ME THAT ALL 3 PLAY THE ROLE OF "PROSECUTOR". "U.S.-V- WILLIAMS" STATES THAT EVERYONE HAS THE RIGHT TO BE TRIED IN A CONSTITUTIONAL COURT - NOT A "KANGAROO" COURT.

MY ATTORNEY ("MR. SOROLA") ACTED IN AN UNETHICAL FASHION REGARDING MY CASE (SEE GROUND 13) "OFFICIAL OPRESSION"-BIAS AND PREJUDICE BY THE D.A: AT MY "BOND HEARING" THE DAY AFTER MY ARREST WHEN THE JUDGE ASKED THE D.A. IF I HAD ANY "PRIORS"- THE RECORD SHOWS THAT HIS RESPONSE INCLUDED A "ROBBERY" CONVICTION. I'VE NEVER EVEN BEEN ARRESTED FOR "ROBBERY"! I BELIEVE THIS INFLUENCED THE JUDGE TO SET A HIGHER BOND THAT KEPT ME FROM MAKING BAIL-AND BEING IN BAD 'MENTAL AND PHYSICAL HEALTH-THIS WAS EXTREMELY DETRIMENTAL FOR ME. IF I HAD BEEN ABLE TO MAKE BAIL I ALSO WOULD HAVE BEEN ABLE TO WORK AND HIRE A PRIVATE ATTORNEY WHICH UNQUESTIONABLY EFFECTED THE OUTCOME OF MY CASE. THIS

8

BIAS DEMONSTRATES THE CHARACTER OF THE D.A.'S OFFICE IN CAMERON COUNTY.

IT IS MY UNDERSTANDING THAT IN OTHER COUNTIES - FELONY CONVICTIONS OVER 15 YEARS OLD AND MISDEMEANORS AND AN "ARREST" HISTORY HOLD NO WEIGHT DURING THE PLEA-BARGAIN PROCESS.

THE D.A. ALSO HELD AGAINST ME AN INVALID CONFESSION... WHICH ALSO LED TO THE RETRACTION OF HIS ORIGINAL PLEA-OFFER, A "SPECIAL MENTAL HEALTH PROBATION" THAT MY ATTORNEY, "MR. SOROLA" HAD TOLD ME ABOUT DURING A PRE-TRIAL HEARING.

THIS ALLEGED CONFESSION WAS WITHOUT "FULL DISCLOSURE" OF MY RIGHTS, WITHOUT "FULL DISCLOSURE" OF DUE PROCESS OF LAW, WITHOUT "FULL DISCLOSURE" OF ANY OR ALL CONSEQUENCES TO ME, WITHOUT "FULL DISCLOSURE" OF LAW AND FACTS MATERIAL TO MY SITUATION. THERE WAS NO ATTORNEY PRESENT DURING THIS (ALLEGED) CONFESSION WHICH, ALONE, MAKES IT INADMISSABLE IN COURT. THE D.A. SHOULD HAVE KNOWN THAT THIS WAS INVALID EVIDENCE AND THE FACT THAT THIS WAS USED AGAINST ME IN THE PLEA-BARGAINING PROCESS SHOWS HIS BIAS AS WELL. (SEE GROUND 8 FOR CITES MADE THERE)

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14) IMPROPRIETIES BY BROWNSVILLE POLICE +
UNCONSTITUTIONAL ARREST;

THERE WAS NO DEFINATE EVIDENCE THAT A CRIME, BY DEFINITION, WAS COMMITTED (SEE GROUND #11). I WAS INSUFFICIENTLY QUESTIONED BY THE ARRESTING OFFICERS AND WAS NOT QUESTIONED AT ALL AT THE POLICE STATION. I HAD NO OPPORTUNITY TO HAVE AN ATTORNEY PRESENT FOR QUESTIONING. MY STATEMENT WAS NEVER TAKEN. I WASN'T EVEN ALLOWED A PHONE CALL!

IT WAS APPARENT-AND KNOWN BY POLICE THAT I WAS A MENTAL PATIENT. AND IT WAS OBVIOUS TO THE ARRESTING OFFICERS THAT I WAS IN DEFINATE NEED OF HOSPITALIZATION - WHY WASN'T I TAKEN TO THE LOCAL STATE MENTAL HOSPITAL? KNOWING MY CONDITION, I WAS PLACED IN AN "OBSERVATION CELL" WHERE MY POOR MENTAL CONDITION WAS EVEN MORE APPARANT - RANTING AND RAVING IN MY DILLUSIONS - COMPOUNDED BY MY "CLOSTROFOBIA". I WAS TOLD THAT I WASN'T BEING TAKEN TO THE HOSPITAL "WITH CHARGES LIKE THESE". THIS WAS MERCILESS, UNETHICAL AND DOWNRIGHT UNLAWFUL BY THE CITY POLICE.

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10

I WOULD LIKE TO POINT OUT THAT THE ONLY QUESTIONING BY POLICE WAS AT THE SCENE OF THE ARREST. I WAS ASSAULTED BY THE COMPLAINANT AND WAS VICTIMIZED BY THIS VIOLENT AND UNSTABLE WOMAN WHO ILLEGALLY BURST INTO MY HOTEL ROOM (UNLAWFUL ENTRY) YELLING AND SCREAMING AT ME AND MY FIANCEE. SHE INTIMIDATED ME SO MUCH SO, AND IN MY MENTAL CONDITION I DIDN'T KNOW WHAT TO SAY TO THE ARRESTING OFFICERS. HERE I WAS QUESTIONED, WITHOUT COUNSEL PRESENT. I WAS NEVER "MIRANDIZED" (SEE MIRANDA - V - ARIZONA). BY DEFINITION I COMMITTED NO CRIME AND WAS A VICTIM OF FALSE ARREST, FALSE IMPRISONMENT, A GRAVATED KIDNAPPING AND ASSAULT AND BATTERY BY BY THE BROWNSVILLE POLICE.

LET ME SUMMERIZE THIS LETTER CITING "BOND - V - U.S." - EVERYONE HAS THE RIGHT TO CHALLENGE THE CONSTITUTIONALITY OF THE STATUTE THEY ARE CHARGED UNDER; AND CONVICTION UNDER UNCONSTITUTIONAL STATUTES ARE INVALID. "MURRAY'S LESSEE - V - HOBOKEN LAND"; AND "MAYBURY - V - MADISON" BOTH STATE THAT "DUE PROCESS OF LAW" MAY NOT BE ALTERED BY LEGISLATIVE ACT BECAUSE THAT AMOUNTS TO AMENDING THE CONSTITUTION BY STATUTE WHICH VIOLATES ART. II AND ART VI OF THE CONSTITUTION - 1 STAT. 1-24, 1ST VOL PP 1-24.

SCOTT HESS
TDCJ #1841004
GARZA EAST UNIT
4304 HWY 202
BEEVILLE, TX. 788

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U.S. DISTRICT CLERKS OFFICE
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